

Revision Date: August 2011

Chapter: Membership Procedures

Impact to Page Numbers: No

Legend: Deleted/Replaced - Added/Revised

Summary: page 19

INDEPENDENT CONTRACTORS

Independent contractors are not “employees” and are excluded from membership in CalPERS by G.C. section 20300(b). An independent contractor is someone who contracts to do a piece of work according to his/her own methods, and is subject to his/her employer’s control only as to the end product or final result of work, and not as to the means and manner by which the work is performed. his or her own methods, and is not subject to the contracting entity’s control as to the end product, final result of work, or manner and means by which the work is performed.

CalPERS also uses the “Common Law Control Test” as a guide to determining independent contractor status.

NOTE:

CalPERS commonly corresponds with agencies (e.g., sends a questionnaire to be completed by both the worker and the employer the contracting entity) in order to determine whether a worker is an “employee” of a CalPERS covered agency, an employee of a non-CalPERS agency, or is an independent contractor. It is important that such questions be answered authoritatively by an appropriate certifying officer at your agency, since the employer may be liable for arrears costs (if membership is determined to be retroactively applicable applied retroactively), or for service credit purchased by the employer, if the worker is found to be an “employee” of your agency.

NOTE:

Persons can have actively-employed membership in two or more public retirement systems (e.g., CalSTRS and CalPERS), as long as it is for different positions.

Revision Date: August 2011

Chapter: Membership Procedures

Impact to Page Numbers: No

Legend: Deleted/Replaced - Added/Revised

Summary: page 25, 26

FULL-TIME EMPLOYEES

CalPERS considers full-time employment to be between 34 and 60 hours per week. Employers generally have the ability to determine what constitutes full-time for an employee provided that the employee works between 34 and 60 hours per week. However, G.C. section 20636.1 specifies that for all non-certificated school members full-time is considered 40 hours per week. This means that all hours up to 40 hours per week must be reported to CalPERS for non-certificated school members at the straight time rate.

QUALIFICATION WHEN WORKING MORE THAN ONE POSITION

These criteria above can be met by employees who are working more than one position under the same employer; therefore, service with all positions with an employer (including both safety and miscellaneous positions) should be considered in determining membership qualification. For example, a person working a permanent 10-hour a week position, and a permanent 12-hour a week position with the same employer, would qualify for membership immediately, by virtue of combining the service of both positions to meet the 20-hour a week minimum.

FURLOUGH LEGISLATION-SCHOOL EMPLOYERS

Legislation passed in 2010 added Government Code section 20969.2 to the Public Employees' Retirement Law. This legislation ensures that certain persons subject to mandatory furloughs will not have their CalPERS retirement benefits impacted due to the furlough.

MEMBERSHIP ELIGIBILITY AND FURLOUGHS

The work hours of employees who do not have a fixed term of appointment and who work on a seasonal, limited-term, on-call, emergency, intermittent, substitute, irregular or other part-time basis as outlined in Government Code Section 20305 should be monitored to determine the point at which service that would have been credited but for the mandatory furlough would have qualified the employee for membership in CalPERS. The hours that an employee would have worked had the employee not been subject to mandatory furloughs should be counted toward qualification of CalPERS membership.

Revision Date: August 2011

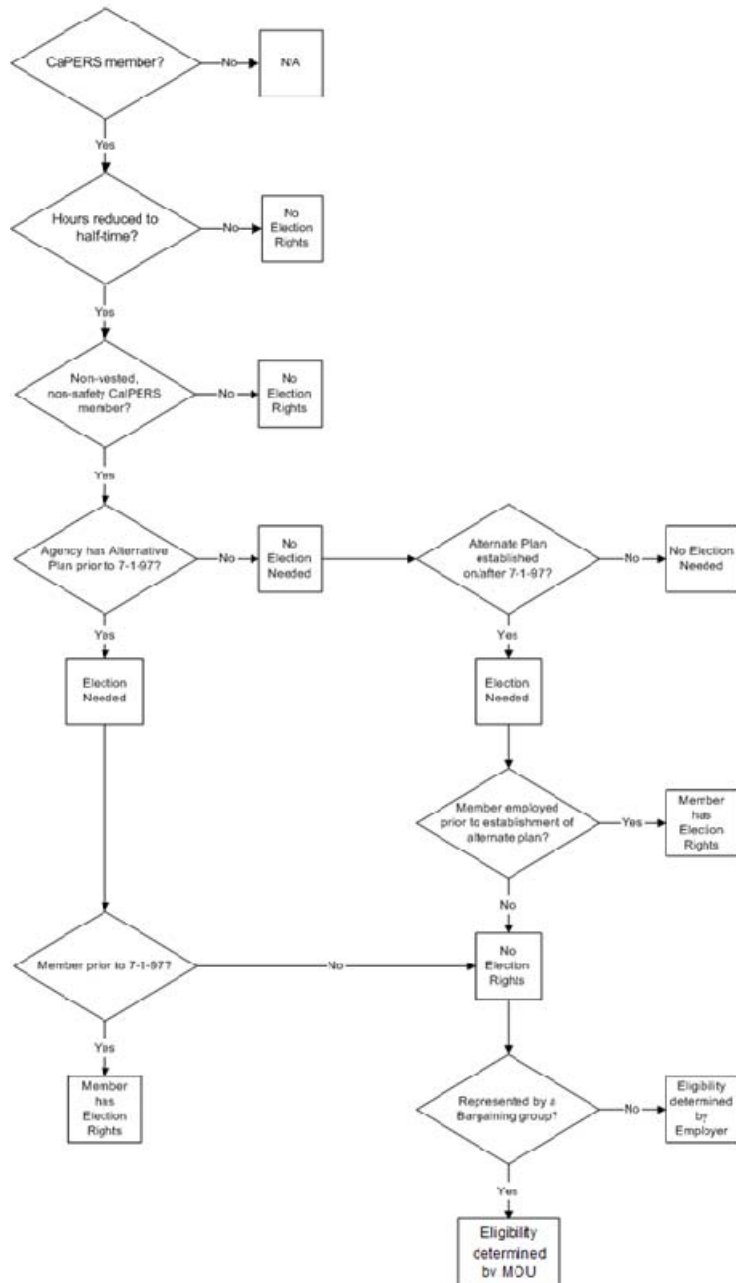
Chapter: Membership Procedures

Impact to Page Numbers: No

Legend: Deleted/Replaced - Added/Revised

Summary: page 28

Eligibility to Participate in the CalPERS/Alternate Retirement Plan Election



Revision Date: August 2011

Chapter: Membership Procedures

Impact to Page Numbers: No

Legend: Deleted/Replaced - Added/Revised

Summary: page 34

NOTE:

There are no provisions in the law that would allow a member or employer to “pay the difference” in contributions between “miscellaneous” and “safety” membership, in order to allow a “miscellaneous” member to be reported to CalPERS as “safety.”

Inappropriate membership classification is one of the key factors that are investigated by CalPERS field auditors and corrective actions will be taken upon discovery by CalPERS staff of such inappropriate classifications. Such retroactive corrective actions may include correction of service credit, retirement contributions paid, and adjustment of retirement allowance paid (if any). If you are unsure about the proper membership category for a given position, submit a job description/duty statement to ~~CalPERS Employer Services Division~~ **CalPERS Customer Account Services Division (CASD)**, Membership Analysis and Design Unit for a determination. Such a review should also be requested upon establishing a new position, or upon making significant changes in the duties of a previously-reviewed position.

Revision Date: August 2011

Chapter: Membership Procedures

Impact to Page Numbers: No

Legend: Deleted/Replaced - Added/Revised

Summary: page 36

OTHER SAFETY CLASSIFICATIONS — PROVIDED BY OPTIONAL CONTRACT PROVISIONS

The following classifications can be added to your ~~S~~safety categories by amending your agency's contract. If your agency has contracted for these other safety classifications, they will be listed in your Annual Employer Statement.

It should be noted that many of these optional sections do not contain the "employed and qualifying" language that is used to give police officers, firefighters, sheriff's deputies, etc. "safety" status when they promote into the supervisory/managerial ranks. Therefore, persons must be performing the specified duties in order to qualify for "safety" coverage under such sections.

RECLASSIFICATION

A member who is employed in a position that is reclassified from local miscellaneous to local safety (other than under the 2% @ 50, 3% @ 50, or 3% @ 55 retirement formulas) may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board. (G.C. section 20443)